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International Covenant on Civil and Political Rights

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Human Rights Committee

# Communication No. 2523/2015

**Decision under the Optional Protocol to the International Covenant on Civil and Political Rights, adopted by the Committee at its 113th session (16 March–2 April 2015)**

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| *Submitted by:* | X (represented by counsel, Cecilia Vejby Andersen from the Danish Refugee Council) |
| *Alleged victim:* | The author |
| *State party:* | Denmark |
| *Date of communication:* | 7 January 2015 (initial submission) |
| *Date of decision:* | 1 April 2015 |
| *Subject matter:* | Deportation to Greece |
| *Procedural issues:* | Level of substantiation of claims |
| *Substantive issues:* | Risk of torture and ill-treatment |
| *Articles of the Covenant:* | Article 7 |
| *Articles of the Optional Protocol:* | Article 2 |

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## Decision on admissibility*

1.1 The author of the communication is Mr. X, a Syrian citizen of Kurdish origin born in 1977. He claims that his deportation to Greece would constitute a violation, by Denmark, of his rights under article 7 of the Covenant. The author is represented by counsel.

1.2 On 9 January 2015, the Committee, acting through its Special Rapporteur on new communications and interim measures, decided not to issue a request for interim measures under rule 92 of the Committee's rules of procedure, and determined that no observations from the State party were needed to ascertain the admissibility of the present communication.

### The facts as presented by the author

2.1 The author is from Maydanke, Afrin, Syrian Arab Republic and is of Kurdish ethnicity. In 2007, he went to Greece from the Syrian Arab Republic and applied for asylum. He was issued a residence permit. He states that he was registered as an asylum seeker, but that he is not sure whether he was granted international protection in Greece.[1] The author resided in Greece from 2007 to 2010. In 2010, he returned to the Syrian Arab Republic.

2.2 In February 2014, the author left the Syrian Arab Republic and, having travelled through Turkey, returned to Greece. He stayed with friends and other people of Kurdish ethnicity, and occasionally in the Lavrio refugee camp with friends, not far from Athens. In Greece, the author paid 1,000 euros to an intermediary who assisted him in getting a residence permit faster.[2] The author explains that with this permit, he travelled to Denmark to visit friends. He travelled through Norway on 14 August 2014, and was apprehended at the Norwegian international airport. He was transferred back to Greece on 15 August 2014, after having failed to explain the purpose for his arrival in Norway.

2.3 On 18 or 19 August 2014, the author was assaulted in Athens by eight or nine men affiliated with the Greek right-wing party Golden Dawn.[3] He was beaten severely by the men, who shouted xenophobic phrases, such as "you foreigners have ruined our country" and "everything is your fault". The men tore his residence permit. They took pictures of him, and stated that next time they would kill him. The next morning, he went to the Attica police station in Athens to report the assault and the death threats. However, the police filed no report and even though the author was severely bruised, he was told that he would get no assistance. Due to the threats to his life, the author stayed indoors until he fled Greece with the assistance of an agent, about one week after the assault.

2.4 On 30 August 2014, the author arrived in Denmark and applied for asylum. As a reason for his request, he invoked the fact that he had been re-drafted for military service in

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* The following members of the Committee participated in the consideration of the present communication: Yadh Ben Achour, Lazhari Bouzid, Sarah Cleveland, Olivier de Frouville, Yuji Iwasawa, Ivana Jelić, Duncan Muhumuza Laki, Photini Pazartzis, Mauro Politi, Sir Nigel Rodley, Victor Manuel Rodríguez-Rescia, Fabián Omar Salvioli, Dheerujlall Seetulsingh, Anja Seibert-Fohr, Yuval Shany, Konstantine Vardzelashvili and Margo Waterval.

[1] According to the information provided in the submission, the Danish Immigration Service received a confirmation from Greece that the author had been granted refugee status in Greece (the date is not specified).

[2] The new residence permit, valid as of June 2014, issued in August 2014, does not indicate the grounds on which it was issued. It is also unclear until when it is valid, as there is an error in the date.

[3] The author stated that assaults by people affiliated with Golden Dawn against refugees and other foreigners are widespread in Greece, and that they often occur without police interference.

the Syrian Arab Republic, and did not mention the fact that he had been issued a residence permit in Greece. His application was processed within the Dublin procedure after the State party's authorities found prior registration of the author's illegal entry into Norway. On an unspecified date, the Danish Immigration Service requested the Norwegian authorities to accept the author's transfer under the Dublin Regulation. The Norwegian authorities refused to accept him, noting that the author had never applied for asylum in Norway and had a residence permit and refugee status in Greece.

2.5 On 7 December 2014, the Danish Immigration Service refused to process the author's request for asylum and refused to allow him to stay in Denmark, owing to his refugee status in Greece and given that he could return and reside legally there. The decision of the Immigration Service was appealed to the Immigration Appeals Board on 6 January 2015. This appeal does not have suspensive effect. The author's deportation to Greece was scheduled for 9 January 2014.

**The complaint**

3.1 The author claims that his rights under article 7 of the Covenant will be violated by the State party in the event of his deportation to Greece. He claims that he would risk being targeted by neo-Nazis there, due to his prior assault, during which his documents were confiscated and destroyed, his photo was taken and he received death threats. He fears that he would not be able to avail himself of the protection of the Greek authorities.[4]

3.2 The author also claims that his deportation would expose him to substandard living conditions, lack of social assistance from the authorities and no prospect of finding a durable humanitarian solution, thus subjecting him to inhuman and degrading treatment, contrary to article 7 of the Covenant.

**Issues and proceedings before the Committee**

4.1 Before considering any claim contained in a communication, the Human Rights Committee must determine whether it is admissible under the Optional Protocol to the Covenant.

4.2 As required under article 5 (2 (a)) of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

4.3 The Committee observes that in his original asylum request before the State party's authorities, the author invoked different grounds from those invoked before the Committee. In his asylum request, he claimed, for instance, that he feared a return to the Syrian Arab Republic, while the complaint before the Committee is based on his fear of return to Greece. The Committee also notes the author's allegation of having been attacked by affiliates of an extremist party before leaving Greece and the fact that the State party was not informed of this assault by the author in his asylum application.

4.4 The Committee further notes the author's claim regarding the poor living conditions of individuals in similar situations in Greece and a lack of adequate assistance by the authorities. At the same time, however, the Committee observes that the author is not an

[4] The author refers to the following international sources to substantiate his claim about widespread xenophobia in Greece and lack of protection from the authorities: Human Rights Watch, *Unwelcome Guests: Greek Police Abuses of Migrants in Athens* (12 June 2013); report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Greece from 28 January to 1 February 2013; United States Department of State, "Country report on human rights practices 2013 – Greece", 27 February 2014.

asylum seeker, but was recognized as a refugee, with the right to work legally in Greece, and that he lived in Greece from 2007 to 2010, without reporting any violation of his rights; that, subsequently, he returned to the Syrian Arab Republic, where he lived for four more years; that within a period of seven months, he managed to travel from the Syrian Arab Republic to Greece, pay for a residence permit there and travel to Norway and Denmark by air; and that his complaint to the Committee is based on an isolated incident, committed by non-State actors. In the light of the above considerations, the Committee considers that the author's claims under article 7 of the Covenant cannot be seen as having been sufficiently substantiated for the purposes of admissibility. Accordingly, the Committee concludes that the communication is inadmissible under article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

(a) That the communication is inadmissible under article 2 of the Optional Protocol;

(b) That this decision shall be transmitted to the State party and to the author.